

**MINUTES**  
**HUNTINGTON BEACH OFFICE OF THE ZONING ADMINISTRATOR**  
**Room B-8 - Civic Center**  
**2000 Main Street**  
**Huntington Beach California**

**WEDNESDAY, NOVEMBER 4, 2009 - 1:30 P.M.**

**ZONING ADMINISTRATOR:** Ricky Ramos

**STAFF MEMBER:** Jill Arabe, Andrew Gonzales, Kimberly De Coite (recording secretary)

**MINUTES:** **NONE**

**ORAL COMMUNICATION:** **NONE**

**ITEM 1: CONDITIONAL USE PERMIT NO. 2009-015 (T-MOBILE WIRELESS COMMUNICATIONS FACILITY – CONTINUED FROM THE OCTOBER 28, 2009 MEETING)**

**APPLICANT:** Monica Moretta, Sequoia Deployment Services, Inc.  
**PROPERTY OWNER:** Duane Hurtado, Community United Methodist Church of Huntington Beach, 18700 Beach Blvd., Suite 260, Huntington Beach, CA 92648  
**REQUEST:** To permit the construction of a 55 ft. high wireless communications facility designed as a palm tree “monopalm” with 12 panel antennas and one (1) GPS antenna, including associated equipment surrounded by a 7 ft. 6 in. high blockwall. The request includes the relocation of a 5 ft. high block wall trash enclosure.  
**LOCATION:** 6666 Heil Avenue, 92647 (south side of Heil Avenue, east of Edwards Street)  
**PROJECT PLANNER:** Jill Arabe

Jill Arabe, Assistant Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing use of the subject site. Staff presented an overview of the proposed project and the suggested findings and conditions for approval as presented in the executive summary.

Ms. Arabe stated that, since the September 30, 2009, meeting, staff has received 11 public comments in opposition to the project, citing concerns with the aesthetics, public health, Federal Communications Commission (FCC) regulations, and inaccuracies with the cellular coverage area maps.

Mr. Ramos asked staff if the proposed bell tower will be located in the same location as the existing bell tower. Ms. Arabe confirmed this.

**THE PUBLIC HEARING WAS OPENED.**

Mr. Ramos stated that, based on federal law, local jurisdictions cannot consider environmental impacts, including health concerns, when reviewing applications for wireless facilities. He stated that his purview is limited to land use compatibility which includes an assessment of a project's impact on traffic, noise, light, aesthetics, and similar issues.

Joe Thompson, Zoning and Government Affairs Manager for T-mobile, stated that the tower would operate at less than one percent of the maximum power approved by Federal guidelines. He noted that property values will not be adversely affected and that the project will not have a visual impact because all of the equipment would be underground or contained within the tower.

Mr. Ramos asked if the equipment would be undergrounded at the location they are currently shown on the site plans. Mr. Thompson confirmed this and noted that there would be an access hatch and ventilation stacks. Mr. Ramos asked for the height of the ventilation stacks and Mr. Thompson indicated that they would be less than two feet.

Mr. Ramos asked if staff had site plans for undergrounding the equipment and Ms. Arabe stated that staff did not.

Dana Drake, 20301 Bluffside Circle #103, stated that she is an attorney and has experience with selling property in probate. She stated that she is required to disclose the location of cellular towers to buyers and sellers. She submitted a letter from a local real estate appraiser stating that cellular towers might lower a property's value by up to five percent.

Michael Ritter, representative for Community United Methodist Church of Huntington Beach (CUMC), read letters from church members in support of the project and encouraged Mr. Ramos to approve the request.

Dianne Larson, 16631 Dale Vista Lane, submitted a packet to Mr. Ramos and staff and spoke in opposition to the project. She stated that she felt there was intentional misrepresentation from T-Mobile and a failure to meet the application and zoning requirements for the permit. Ms. Larson stated that she felt the coverage gap did not exist and that T-Mobile has provided inaccurate and inconsistent information.

Mr. Ramos provided a brief overview of the approval process for wireless facilities. He stated that a wireless permit must first be obtained from the Planning Department and that the wireless coverage gap is reviewed only during the processing of the wireless permit which is outside of the scope of the entitlement and purview of the Zoning Administrator.

Diane Anderson, 6651 Mason Drive, spoke in opposition to the request, citing concerns with the potential negative impact on property values. She submitted pictures of the surrounding area and a letter from Tom Garland, a real estate appraiser, regarding the negative impact on property values.

John Finley, 6611 Abbott Drive, spoke in opposition to the project, citing concerns with public health and the possible negative impact on property values. He questioned the validity of the suggested findings for approval.

Cynthia Bradbury, 16792 Cooper Lane, spoke in opposition to the project. She stated that her children have attended the preschool at CUMC and expressed concern regarding the possible health impacts. She stated that she felt the tower should not be placed near a preschool.

Fred Booth, 5942 Edinger Avenue #113, spoke in opposition to the project, citing concerns with potential negative health impacts. He quoted passages from a book regarding the potential health impacts of wireless facilities.

Al Collins, 16562 Kellog Circle, spoke in support of the request. He stated that he was a member of CUMC and noted that over 150 churches with preschools in Orange County have cellular towers on-site. He stated that the cellular tower was not a danger to residents and indicated that he had spoken with three realtors who did not believe the cellular tower would negatively impact neighboring property values.

Tammy Crowder, 16391 Redlands Lane, spoke in opposition to the project citing the potential decrease in property values. She expressed concern about the state of the community in the neighborhood. She stated that the current bell tower was donated by the Slater family and that the property was donated by the Murdy family and felt that the historic value of the current bell tower was being ignored. She stated that she felt the approval of the request would set a poor precedent.

Mr. Ramos asked Ms. Crowder if she felt that the potential decrease to property values was due to potential homebuyers' concerns about health impacts. Ms. Crowder stated that she believed the perceived impact would be enough to lower her property value.

Ron Passmore, 16632 Dale Vista Lane, spoke in opposition to the request and asked that the request be denied until the regulations regarding the placement of cellular towers are revised. He stated that he believed cellular towers should only be placed in commercial zones and should not be placed near schools or churches. He stated that he purchased his home specifically because of the distance from commercial areas and asked Mr. Ramos to assist in the protection of his property values. He asked the church to research different ways to generate revenue.

Mr. Ramos noted that the currently proposed design would entirely screen the antennas and asked Mr. Passmore why he believed it would affect his property value. Mr. Passmore stated that he believed that potential buyers would be concerned about possible health impacts.

John Anderson, 6651 Mason Drive, spoke in opposition to the project and stated that the cellular tower would be detrimental to the neighbor's welfare and property values. He stated that a large number of parents intended to withdraw their children from the preschool. He stated that the property is not zoned for a 55 ft. high structure and indicated that camouflaging the tower did not negate his concerns regarding the decrease in property value. He expressed concern about the potential noise impacts. He submitted a petition against the project as well as a dvd of cellular towers near his residence.

Norma Gibbs, 17087 Westport Drive, spoke in support of the request. She stated that she has been a member of CUMC since 1964 and is saddened by the neighbor's objections. She stated that there is no detriment to children and that potential health impacts came from cellular phones, not cellular towers.

Joy Nishiwaki, 16461 Redlands Lane, spoke in opposition to the project, citing the potential negative health impacts. She stated that her children attend the preschool and she felt that the cellular tower would negatively impact enrollment at the preschool.

Rene Thorn, 6502 Bishop Drive, spoke in opposition to the project due to the potential noise impacts.

Don McFarland, 6631 Mason Drive, spoke in opposition to the project citing concerns with the potential health impacts and the energy consumption of the cellular tower. He stated that there would be a backup generator required and did not feel that all the project's information had been disclosed.

Carol Settimo, 16542 Cooper, stated that she was a resident and a member of CUMC. She spoke in opposition to the project due to potential negative health impacts.

Adam Rodell, 16631 Fountain Lane, spoke in opposition to the project. He stated that he felt the project's submittal package lacks the necessary information for T-Mobile to prove the need for the cellular tower and questioned the swiftness of the processing of the permit.

Blanca Evans, 6641 Mason Drive, spoke in opposition to the project. She stated that T-Mobile's application is false and misleading. She stated that T-Mobile has not proved conclusively that there is a need for the tower and that the current cellular coverage is adequate.

Laura Harris, 16682 Dale Vista Lane, spoke in opposition to the request. She stated that she was a T-Mobile customer and felt the current coverage was adequate. She indicated that should the tower be constructed she would withdraw her child from the preschool.

Matt Everling, 6542 Abbott Drive, spoke in opposition to the request, citing disagreements with the findings and conditions of approval. He expressed concern over the potential decrease in property values and stated that a cellular tower was a commercial use and incompatible with a residential neighborhood. He stated that the request conflicts with the General Plan and that the Zoning Ordinance is inconsistent with the General Plan.

Mr. Ramos stated that the Zoning Ordinance is set up so that there are stricter standards for wireless facilities proposed in residential districts. He indicated that wireless facilities are considered a utility. Mr. Everling stated that the telecommunications and utilities are not defined in the overall definitions of the Zoning Ordinance. Mr. Ramos indicated that wireless communications are classified as communications facilities in the Zoning Ordinance.

Patrick Taylor, 16561 Simone Lane, spoke in opposition to the project, citing the potential decrease in property values.

Ginny Bean, 15892 Malm Circle, spoke in opposition to the project. She stated that she is a member of CUMC and feels the project will be detrimental to the church and the preschool.

Mr. Thompson stated that significant thought and diligence went into the selection of this site and that coverage is needed. He stated that the real estate disclosure is only applicable from the time the permit is issued until the site is built. He noted that wireless communications are regulated by the California Public Utilities Commission and that they provide a public utility

service. He stated that the site does not require a transformer and that a generator is not proposed. He indicated that if a generator were installed it would only be operational if the wireless facility experiences three consecutive days without power.

Mr. Ramos asked if the generator could be undergrounded. Mr. Thompson stated that a portable generator is used to initially power up the site but that a permanent one is not proposed. He noted that if a permanent generator were required, it was unlikely that it could be undergrounded.

Mr. Rodell asked Mr. Thompson if there were any plans to increase the signal strength at any of the existing cellular sites. Mr. Thompson indicated that there were not.

Mr. Finley reiterated his concerns with the potential health impacts.

**THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.**

Mr. Ramos noted that he sympathized with the health concerns of the residents but reiterated that his decision could only be based on a project's land use impacts. He noted that the City has a long standing record of approving wireless facilities near residential neighborhoods. He stated that he could not determine any impacts related to traffic, noise, odor, or light and that the completely stealth design negated any significant aesthetic impacts.

Mr. Ramos stated that he would approve the project as recommended by staff with no changes to the findings or conditions of approval.

**CONDITIONAL USE PERMIT NO. 2009-015 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING FINDINGS AND CONDITIONS OF APPROVAL. STAFF STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.**

**FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15301 of the CEQA Guidelines, because the project consists of the minor alteration of an existing structure, involving no expansion of the existing church use.

**FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2009-015:**

1. Conditional Use Permit No. 2009-015 for the establishment, maintenance and operation of a 55 ft. high wireless communications facility disguised as a bell tower with six (6) panel antennas and one (1) GPS antenna, including completely stealth associated equipment will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed facility will replace an existing 52 ft. high bell tower with a new bell tower structure. The structure will be setback more than 125 ft. from the adjacent residences located to the south, east, and west of the site. The design of the tower will disguise the associated antennas from public view. The project will not generate noise, traffic, or demand for additional parking above that which already exists on the subject site. As a

condition of approval, the wireless communication equipment will be underground. The proposed height will enhance wireless communications in the community by improving signal transmission and reception in the project vicinity.

2. The conditional use permit will be compatible with surrounding uses because the wireless communications facility and support structure will be designed as a bell tower to blend into the surrounding environment including the existing church located on site. The project involves the replacement of a bell tower with a tower of similar height and at an identical location onsite. The bell within the tower will be operational. The antennas will not be visible from public view as they will be concealed within the tower structure. All associated equipment, as conditioned, will be underground to further eliminate visual impacts of the wireless communications facility along Heil Avenue and on the property.
3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. Wireless communication facilities are permitted to exceed the maximum height of 35 ft. for the base zoning district with approval of a conditional use permit.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of Public on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Land Use Element

Goal - LU 2: Ensure that development is adequately served by transportation infrastructure, utility infrastructure, and public services.

Policy LU 2.1.1: Plan and construct public infrastructure and service improvements as demand necessitates to support the land uses specified in the Land Use Plan (as defined in the Circulation and Public Utilities and Services Elements of the General Plan).

B. Utility Element

Policy U 5.1: Ensure that adequate natural gas, telecommunication and electrical systems are provided.

Policy U 5.1.1: Continue to work with service providers to maintain current levels of service and facilitate improved levels of service.

The proposed facility will enhance wireless communications in the community by improving signal transmission and reception in the project vicinity. In addition, the proposed completely stealth facility is designed as a bell tower and will replace the existing bell tower onsite. The location of associated equipment will be underground so as to eliminate any visual impacts to surrounding uses. As conditioned, the project will have minimal visual impacts because the wireless communications equipment will be underground and the new bell tower will match the previous.

**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 2009-015:**

1. The photo simulations dated October 27, 2009 and site plans and elevations dated October 28, 2009, shall be the conceptually approved design.
2. All associated equipment to the wireless communications facility shall be underground.
3. The existing trash enclosure shall not be relocated and the existing block wall enclosure shall not be removed.
4. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green's Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/index.cfm?fuseaction=guidelines>).

**INDEMNIFICATION AND HOLD HARMLESS CONDITION:**

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

**ITEM 2: COASTAL DEVELOPMENT PERMIT NO. 2009-004/ CONDITIONAL USE PERMIT NO. 2009-020/ VARIANCE NO. 2009-004 (LARSON RESIDENCE)**

APPLICANT: Jay Earl, Jay Earl Design  
PROPERTY OWNER: Lory and Sharon Larson, 3761 Nimble Circle, Huntington Beach, CA 92649  
REQUEST: **CDP:** To permit the demolition of an existing single-family dwelling and the construction of an approximately 6,508 sq. ft. single-family dwelling with a 1,131 sq. ft. attached garage; **CUP:** To permit an approximately 701 sq. ft. 3<sup>rd</sup> story deck; **VAR:** To permit the 3<sup>rd</sup> floor deck railing at a 1 ft. 9 in. setback from the exterior of the west elevation and 0 ft. setback from the exterior of the east elevation in lieu of a minimum 5 ft. required. This request includes a review and analysis for compliance with the Infill Lot Ordinance. The Infill Lot Ordinance encourages adjacent property owners to review proposed development for compatibility/ privacy issues, such as window alignments, building pad height, and floor plan layout.

LOCATION: 3761 Nimble Circle, 92649 (terminus of Nimble Circle – Trinidad Island)  
PROJECT PLANNER: Andrew Gonzales

Andrew Gonzales, Associate Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing use of the subject site. Staff presented an overview of the proposed project and the suggested findings and conditions for approval as presented in the executive summary. Staff recommended denial of the variance based on the suggested findings.

Mr. Gonzales stated that staff had not received any public comments.

Mr. Ramos asked if the proposed third story deck is hidden from view by the roofline. Mr. Gonzales confirmed that the roof was high enough to obscure direct views of the neighboring properties. Mr. Gonzales noted that the two vertical projections are proposed attic space and not habitable space.

Mr. Ramos noted that suggested conditions of approval are code requirements. Mr. Gonzales confirmed this but stated that staff would like them reflected on the actual site plans. Mr. Ramos asked how suggested Condition No. 1b would modify the plans and Mr. Gonzales reviewed this on the site plan.

#### **THE PUBLIC HEARING WAS OPENED.**

Jay Earl, applicant, stated that he felt the variance request adhered to the intent of the code since the views from the deck were obscured. He submitted photographs of the property.

Mr. Ramos asked if the design could be modified to have the walls meet the setback requirements. Mr. Earl indicated that this would increase the lot coverage beyond compliance. He stated that the glass railing would allow the visual mass of the building to be unchanged.

Mr. Ramos noted staff's concerns that the project does not meet the necessary findings to approve a variance. Mr. Earl reiterated that he felt the intent of the code was met since the privacy of the neighboring residents was being maintained.

Mr. Ramos asked staff if any similar variances had been approved in the past. Mr. Gonzales indicated that a similar request had been denied in 2007.

Lory Larson, property owner, stated that he felt other decks in the neighborhood were far more intrusive than the proposed deck. He stated that meeting the setbacks would interfere with the proposed skylight. Mr. Ramos asked if the five foot setback would leave adequate room to walk around the skylight. Mr. Larson indicated that skylight would need to be reduced.

Sharon Larson, property owner, noted that the edge of the deck would still be 50 feet back from the property line.

Mr. Ramos asked Mr. Earl if he would be interested in redesigning the project to accommodate the setback requirements. Mr. Earl stated that, given the time spent on this design that would be unreasonable.



Mr. Ramos noted that he looked at the neighborhood and did not feel he could distinguish the subject site as different from the remaining neighboring properties to support the variance. Mr. Earl asked if the design of the project would support the variance. Mr. Ramos noted that he was concerned with setting a precedent and asked the applicant how he would contest the findings in his favor. Mr. Earl stated that he considered the intent of the code to be aimed at protecting the privacy of residents and that the project was consistent with that goal.

Mr. Ramos reviewed the findings with the applicant. Ms. Larson indicated that houses in the neighborhood did not comply with code and Mr. Ramos agreed that some of the older houses in the neighborhood were built prior to the current code requirements. Mr. Larson stated that several houses in the neighborhood did not comply with the code or the intent of the code. Mr. Earl noted that the project is unique as it has no view on adjacent properties.

Mr. Ramos asked if the neighboring houses Mr. Larson mentioned had been granted variances. Mr. Larson indicated that he did not know.

Mr. Ramos offered to continue the item, should the applicant allow a 90 day extension, in order to allow Mr. Earl more time to address the required findings for a variance. Mr. Larson asked what was involved in allowing the extension. Mr. Ramos indicated that the applicant would need to submit a letter agreeing to the extension. Mr. Larson indicated that he would agree to the extension.

Mr. Earl showed Mr. Ramos a three dimension depiction of the project.

**THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.**

Mr. Ramos stated that he would need written agreement to the extension and continued the item to the November 10, 2009, meeting.

**COASTAL DEVELOPMENT PERMIT NO. 2009-004/ CONDITIONAL USE PERMIT NO. 2009-020/ VARIANCE NO. 2009-004 WERE CONTINUED TO THE NOVEMBER 10, 2009 MEETING.**

**THE MEETING WAS ADJOURNED AT 3:47 PM TO THE NEXT REGULARLY SCHEDULED MEETING ON TUESDAY, NOVEMBER 10, 2009, AT 1:30 PM.**

  
\_\_\_\_\_  
Ricky Ramos  
Zoning Administrator

RR:kdc